

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

BARRY BROWN,

Plaintiff,

v.

MISSOURI DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

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No. 2:21-CV-78-RWS

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff Barry Brown, a prisoner, filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983 against the Missouri Department of Corrections, and the Moberly Correctional Center. He indicated an intent to assert claims of negligence and claims related to non-receipt of medically-necessary items, among others. He also filed supplemental documents. The Court conducted the review required by 28 U.S.C. § 1915A(a), and determined the complaint was subject to dismissal.

On February 28, 2022, the Court entered an order giving plaintiff the opportunity to file an amended complaint to cure the defects. In that order, the Court clearly explained the reasons this action was subject to dismissal, gave plaintiff clear instructions about how to prepare the amended complaint, and cautioned him that his failure to timely file an amended complaint could result in the dismissal of his case, without prejudice and without further notice.

Plaintiff's response was due to the Court on March 30, 2022. To date, however, he has neither filed an amended complaint, nor sought additional time to do so. The Court gave plaintiff meaningful notice of what was expected, cautioned him that his case would be dismissed if he failed to timely comply, and waited additional time for him to comply. Therefore, this action will be dismissed at this time, without prejudice, due to plaintiff's failure to comply with this Court's

February 28, 2022 order and his failure to prosecute this case. *See* Fed. R. Civ. P. 41(b); *see also* *Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986) (“A district court has the power under Fed. R. Civ. P. 41(b) to dismiss an action for the plaintiff’s failure to comply with any court order . . .”); *Dudley v. Miles*, 597 F. App’x 392 (8th Cir. 2015) (per curiam) (affirming dismissal of *pro se* litigant’s complaint under Fed. R. Civ. P. 41(b) for failure to file an amended complaint).

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", is written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 15th day of April, 2022.